IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO : 15276 of 2005

Between:

M/s. Aravind Agencies, Kamareddy, Nizamabad District, Rep. by its Proprietrix, Mrs. K. Rama Devi.

..... PETITIONER

AND

1 The Addl. Commissioner of Commercial Taxes (Legal), Office of

the Commissioner (CT), Commercial Taxes Complex, Nampally

Station Road, Hyderabad,
2 The Appellate Dy. Commissioner of Commercial Taxes,

Secunderabad Division, Hyderabad,
3 The Commercial Tax Officer, Kamareddy, Nizamabad District,

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, Order or a direction, preferably one in the nature of a Writ of Mandamus, declaring the action of 1st Respondent in rejecting the Revision (Stay) Application for the assessment year 2002-03 (APGST) in his proceedings CCT's Ref. L.III(1)288/2005, dt. 24-6-2005 (Served on the petitioner on 11-7-2005) pending appeal before the 2nd respondent-Appellate Dy. Commissioner (CT), Secunderabad Division as illegal, arbitrary and unconstitutional besides being against the principles of natural justice.

Counsel for the Petitioner:MR.A.K.JAISWAL

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court at the stage of admission made the following :

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O R D E R (Per the Hon'ble Sri Bilal Nazki, ACJ)

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Heard learned Counsel for the parties. With their consent, the writ petition is disposed of at this stage.

The controversy is that pending appeal, application for stay was dismissed by the competent authority. We have gone through the record and heard learned Counsel for the parties. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of half of the liability. Therefore, we set aside the order of the authority and direct that half of the disputed tax liability shall be paid by the petitioner within a period of four weeks. For four weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within four weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal. However, if the petitioner has already paid any amount towards the disputed tax, while calculating the 50 per cent amount, the amount paid by the petitioner shall be given credit to.

The writ petition is disposed of accordingly. No costs.

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(Bilal Nazki, ACJ)

15th July, 2005

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(G.Chandraiah,J)

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To

1 The Addl. Commissioner of Commercial Taxes (Legal), Office of

the Commissioner (CT), Commercial Taxes Complex, Nampally

Station Road, Hyderabad,
2 The Appellate Dy. Commissioner of Commercial Taxes,

Secunderabad Division, Hyderabad,
3 The Commercial Tax Officer, Kamareddy, Nizamabad District,

4 Two C.Cs to the G.P. for Commercial Taxes, High Court Buildings,

A.P., Hyderabad (OUT)

5 2 CD copies

6 1 CC to MR.JAISWAL